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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,445	02/10/2004	Andrew P. Haslam	20423-08313	3699
34415	7590	06/07/2007		
SYMANTEC/ FENWICK SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			EXAMINER ROSE, HELENE ROBERTA	
			ART UNIT 2163	PAPER NUMBER
			NOTIFICATION DATE 06/07/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/776,445

Applicant(s)

HASLAM ET AL.

Examiner

Helene Rose

Art Unit

2163

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-37.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


DON WONG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Applicant's arguments have been considered but are not persuasive.

In response to Examiner Interview, wherein applicant stated "Examiner declined to discuss the cited references".

Applicant Attorney stated within the "Interview Request Form" faxed to the Examiner on 5/8/2007, that he would like to clarify the invention and discuss the Bendert reference vs. the cited references as stated above, and he also stated that he felt prior art used (Bendert) was unrelated to the claim invention.

Initially, upon accepting to conduct an Interview, the Examiner indicated to applicant attorney that since this is a FINAL rejection, normally and under Examiner discretion a request for an interview is declined if applicant is rehashing the same arguments that have already been addressed within the final rejection. Applicant attorney therefore stated that he would just like to clarify the invention.

(1) Applicant argues prior art (Bendert) fails to teach or suggest "preservation of data already existing at the destination".

Examiner is not persuaded. Refer to (Bendert) ~ column 4, lines 11-15, wherein clone storage is used to preserve the base storage area object metadata and data that existed at the time the clone storage area was created; column 6, lines 23-36, wherein the existence of a clone storage area is an indicator that at least a view of the base storage system area must be maintained as of the time of the clone request was made and if changes are subsequently requested to a data block within an object within the base storage area, then and only then is the metadata copied to the clone storage area and then copied metadata is limited to that for the changed object, BUT until such a change is requested the clone storage area remains an indicator requiring little overhead to produce and maintain wherein alternately pursuant to the request to update object, the base storage area could retain the metadata to point to the original blocks of object and clone storage area written with the metadata to point to the copy of the blocks of object; and column 8, lines 25-26, wherein the clone object will mirror the state of object in the base storage area, wherein this is interpreted to be making an exact copy.

(2) Applicant argues prior art (Bendert) fails to teach or suggest "cloning manager identifying at least one in-place file system object at least partially within the boundaries to be preserved during the clone operation".

(3) Applicant argues prior art (Bendert) fails to teach or suggest "the cloning manager ensuring that each in-place file system object at least partially within the boundaries to be preserved during the clone operation is not located in a protected area".

(4) Applicant argues prior art (Bendert) fails to teach or suggest "the cloning manager creating the file system during the clone operation only in locations within the boundaries in which no in-place file system object to be preserved is located".

Examiner states: In response to applicant's arguments (2, 3, and 4), Applicant is "rehashing" arguments that have already been addressed in the Final Office Action mailed out on 4/4/2007 (see pages 16-18), therefore the reasons are set forth in the final rejection are found to be correct and are in accordance with the recited claims.